



L. JOYCE HAMPERG
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Leventt Pattonstall Building,

100 Cambridge Street, Boston 02204

April 7, 1982

You ask whether an individual who lives in a retirement home for the elderly, is entitled to the income tax deduction for rent under General Laws Chapter 62, Section 3(B)(a)(9).

Such a home is a living arrangement for individuals who do not routinely require nursing or other medically related services. Residents are typically provided with private or semi-private furnished bedrooms, meals served in a communal dining room, linen, laundry services, dietary and housekeeping services, twenty-four hour management and on-call emergency medical assistance. Residents have use of a common living room and recreational facilities. Such homes for the elderly are classified as Level IV facilities by the Department of Public Health. (G.L. c. 111, s. 72).

Chapter 62, Section 3(B)(a)(9), as amended by Chapter 782 of the Acts of 1981, allows a deduction from Part B adjusted gross income "1/n the case of an individual who pays rent for his principal place of residence and such residence is located in the Commonwealth, an amount equal to fifty per cent of such rent."

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Subsection 3 of the Department of Revenue's regulation on the rental deduction (830 CMR 62.40) provides that consideration paid for occupancies where no landlord-tenant relationship is involved, such as in a hotel, lodging house or motel "is not rent unless and until such premises are occupied under a rental agreement, written or oral, creating a landlord-tenant relationship." Such an agreement gives the tenant the right of exclusive possession of specifically described premises for all purposes. An individual does not occupy the facilities about which you inquire under a rental agreement; no landlord-tenant relationship is involved. Fees paid to such homes are not "rent" in the ordinary meaning of the word. A significant portion of the charge is for meals, services and the availability of medical care.

Based on the foregoing it is ruled that fees paid by residents of a home for the elderly do not qualify for the rental deduction.

Very truly yours,,

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Commissioner of Revenue,

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LR 82-33